



APPEAL BRIEF UNDER 37 C.F.R. § 41.37

TABLE OF CONTENTS

	Page
<u>1. REAL PARTY IN INTEREST</u>	2
<u>2. RELATED APPEALS AND INTERFERENCES</u>	3
<u>3. STATUS OF THE CLAIMS</u>	4
<u>4. STATUS OF AMENDMENTS</u>	5
<u>5. SUMMARY OF CLAIMED SUBJECT MATTER</u>	6
<u>6. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL</u>	14
<u>7. ARGUMENT</u>	15
<u>8. APPENDIX I: The Claims on Appeal</u>	38
<u>9. EVIDENCE APPENDIX</u>	46
<u>10. RELATED PROCEEDINGS APPENDIX</u>	47

Appeal Brief Under 37 CFR 41.37

Serial No.: 09/579,918

Filed: May 26, 2000

Title: SYSTEM AND METHOD FOR RAIL TRANSPORT OF TRAILERS

Page 1 of 47

Docket No.: 1126.001US1

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Douglas J. Miller et al.

Serial No.: 09/579,918

Filed: May 26, 2000

For: **SYSTEM AND METHOD FOR RAIL TRANSPORT OF TRAILERS**

Examiner: Andrew J. Fischer

Group Art Unit: 3627

Docket: 1126.001US1

APPEAL BRIEF UNDER 37 C.F.R. § 41.37

Mail Stop Appeal Brief- Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This Brief is presented in support of the Notice of Appeal mailed April 6, 2009, from the final rejection of claims 1-10, 12-22, and 25-28 of the above-identified application, as set forth in the Final Office Action mailed December 4, 2008. A copy of the claims being appealed is enclosed as Appendix I.

Appellants respectfully request consideration and reversal of the Examiner's rejections of pending claims 1-10, 12-22, and 26-28.

11/09/2009 SDEN60B3 00000072 190743 09579910
02 FC:1402 540.00 DA

1. REAL PARTY IN INTEREST

The Real Party in Interest of the above-captioned patent application is Canadian Pacific Railroad, the assignee of the application.

2. RELATED APPEALS AND INTERFERENCES

There are no related appeals or interferences for the above-referenced patent application.

3. STATUS OF CLAIMS

The present application was filed on May 26, 2000 with claims 1-24. A Restriction Requirement was mailed May 20, 2003. In response thereto, Applicants elected Group I, which includes claims 1-10 and 12-22. Claims 11, 23, and 24 were canceled without prejudice. A non-final Office Action was mailed September 10, 2003. In a response mailed February 10, 2004, Applicant amended claim 5, and added new claims 25-28. A Final Office Action was mailed May 5, 2005. A Notice of Appeal was filed November 3, 2004.

The Examiner reopened prosecution and issued a non-final Office Action May 25, 2006. In a response mailed November 27, 2006, Applicant amended claims 1, 12, 16, 25 and 26. A Final Office Action was mailed March 26, 2007. A Notice of Appeal was filed July 24, 2007, followed by Request for Continued Examination mailed January 24, 2008. The Request for Continued Examination included an amendment amending claims 1, 9, 12, 14, 16, 25, 26 and 28. A non-final Office Action was mailed March 17, 2008. A response was filed August 18, 2008. A Final Office Action was mailed December 4, 2008. A Notice of Appeal was filed April 6, 2009. Claims 1-10, 12-22, and 25-28 (Appendix I, Claims) remain pending in this application as amended in the amendment mailed January 24, 2008 and are the subject of the present appeal.

Claims 1-10, 12-22 and 25-28 stand rejected under 35 U.S.C. §103(a), remain pending, and claims 1-10, 12-22 and 26-28 are the subject of the present Appeal.

Appeal Brief Under 37 CFR 41.37

Serial No.: 09/579,918

Filed: May 26, 2000

Title: SYSTEM AND METHOD FOR RAIL TRANSPORT OF TRAILERS

Page 5 of 47

Docket No.: 1126.001US1

4. STATUS OF AMENDMENTS

No amendments have been made subsequent to the Final Office Action mailed December 4, 2008.

5. SUMMARY OF CLAIMED SUBJECT MATTER

Independent Claim 1

Independent Claim 1 recites a trailer transport system (10, Fig. 1) for tracking trains having a plurality of rail cars, wherein each rail car can transport a trailer. *See page 7, lines 1-4 and page 18, line 18 through page 19, line 2; see also Figure 1.* The trailer transport system (10) comprises:

a computer system (*see page 7, lines 4-9; Figure 1, reference numeral 12*) having a trailer tracking program (26), wherein the trailer tracking program receives information regarding a trailer to be transported and stores the information in a record (*see also, p. 18, line 18 through p. 19, line 28*); and

a plurality of railway terminals (*see page 7, line 2; Figure 1, reference numerals 14.1 and 14.2*), wherein each railway terminal includes means (20) for receiving a train having a plurality of rail cars and means (16) for receiving trailers to be loaded on the rail cars and wherein each railway terminal includes a railway terminal management system (*See page 7, lines 8-10; Figure 1, reference numeral 18*) communicatively connected to the computer system, wherein the railway terminal management system pulls up the record corresponding to the trailer to be transported when the trailer arrives at the terminal and modifies the record to reflect the trailer's transportation status (*See page 7, lines 8-10; see also, p. 18, line 18 through p. 19, line 28*).

In claims 1-10, the **means for receiving a train** having a plurality of cars are shown as loading track 20 and main rail 22 in Fig. 1, and are described at p. 7, lines 1-9 and at p. 8, lines 9-18. In claims 1-10, the **means for receiving trailers** to be loaded on the rail cars are shown as trailer transit area 16 in Fig. 1, and are described at p. 7, lines 1-9, at p. 8, lines 9-18 and at p. 9, line 21 through p. 10, line 20.

Dependent Claim 3

3. The system according to claim 1, wherein the computer system (12) includes a reservation system (27) for reserving a slot on a train, wherein the reservation system operates in conjunction with the trailer tracking program to ensure that a trailer to be transported is placed on its assigned train (*see p. 7, lines 10-15, see p. 9, line 27 through p. 10, line 20 and see Figs. 11-18 and p. 20, line 1 through p.22, line 16*).

Dependent Claim 9

9. The system according to claim 1, wherein the terminal management system (18) includes an access restriction system (64 in Fig. 4, 88 and 90 in Figs. 5 and 6, *see also p. 10, lines 1-20, p. 10, line 28 through p. 11, line 9, and p. 12, line 1-14*) which restricts access to physical locations within the railway terminal (14).

Dependent Claim 10

10. The system according to claim 9, wherein the access restriction system (64 in Fig. 4, 88 and 90 in Figs. 5 and 6, see also p. 10, lines 1-20, p. 10, line 28 through p. 11, line 9, and p. 12, line 1-14) includes a gate and a gate controller (64 in Fig. 4, 102 in Fig. 6), wherein the gate controller operates in conjunction with the computer system to restrict access to the terminal (see p. 10, lines 1-20).

Independent Claim 12:

12. In a trailer transport system (10, Fig. 1) having a computer system (see page 7, lines 4-9; Figure 1, reference numeral 12) and a plurality of railway terminals, including a first and a second railway terminal (see page 7, line 2; Figure 1, reference numerals 14.1 and 14.2), wherein each railway terminal is configured to receive trains having a plurality of rail cars and to receive trailers to be loaded on the rail cars (loading track 20 and main rail 22 in Fig. 1, trailer transit area 16 in Fig. 1, see also, p. 7, lines 1-9, p. 8, lines 9-18 and p. 9, line 21 through p. 10, line 20), a system for tracking movement of a trailer, comprising:

a network;

a computer system (12) communicatively coupled to the network (32), wherein the computer system includes a data storage system (24) used to store information identifying the trailer (see page 7, lines 4-9);

a first terminal management system (18) associated with the first railway terminal (14.1), wherein the first terminal management system is communicatively coupled to the network (32) and communicates through the network to the computer system (12) (*see page 7, lines 2-9*); and

a second terminal management system (18) associated with the second railway terminal (14.2), wherein the second terminal management system is communicatively coupled to the network (32) and communicates through the network to the computer system (12) (*see page 7, lines 2-9*);

wherein trailers enter and exit each railway terminal (14); and

wherein each terminal management system (18) tracks arrivals and departures of the trailers from each railway terminal and modifies the information stored in the data storage system (24) as a function of said arrivals and departures (*see p. 9, line 21 through p. 11, line 15*).

Dependent Claim 14

14. The trailer transport system of claim 12, wherein the terminal management system (18) comprises an access restriction system (64 in Fig. 4, 88 and 90 in Figs. 5 and 6, *see also p. 10, lines 1-20, p. 10, line 28 through p. 11, line 9, and p. 12, line 1-14*) which restricts access to physical locations within the railway terminal (14).

Dependent Claim 15

15. The trailer transport system of claim 14, wherein the access restriction system (*64 in Fig. 4, 88 and 90 in Figs. 5 and 6, see also p. 10, lines 1-20, p. 10, line 28 through p. 11, line 9, and p. 12, line 1-14*) comprises an access controller (*64 in Fig. 4, 90 in Fig. 5, 64 in Fig. 6*) coupled to an access server (*gate client in Fig. 4, access server 88 in Fig. 5 and client 100 in Fig. 6*), wherein the access server is coupled to the network (*see also p. 10, lines 1-20, p. 10, line 28 through p. 11, line 9, and p. 12, line 1-14*).

Independent Claim 16

16. In a trailer transport system (*10, Fig. 1*) having a computer system (*see page 7, lines 4-9; Figure 1, reference numeral 12*) and a plurality of railway terminals, including a first and a second railway terminal (*see page 7, line 2; Figure 1, reference numerals 14.1 and 14.2*), wherein each railway terminal is configured to receive trains having a plurality of rail cars and to receive trailers to be loaded on the rail cars (*loading track 20 and main rail 22 in Fig. 1, trailer transit area 16 in Fig. 1, see also, p. 7, lines 1-9, p. 8, lines 9-18 and p. 9, line 21 through p. 10, line 20*), a system for tracking movement of a trailer, comprising:

a network;

a computer system (*12*) communicatively coupled to the network (*32*), wherein the computer system includes a data storage system (*24*) used to store information identifying the trailer (*see page 7, lines 4-9*);

a first access restriction system associated with the first railway terminal, wherein the first access restriction system is communicatively coupled to the network and communicates through the network to the computer system (64 in Fig. 4, 88 and 90 in Figs. 5 and 6, see also p. 10, lines 1-20, p. 10, line 28 through p. 11, line 9, and p. 12, line 1-14); and

a second access restriction system associated with the second railway terminal, wherein the second access restriction system is communicatively coupled to the network and communicates through the network to the computer system (64 in Fig. 4, 88 and 90 in Figs. 5 and 6, see also p. 10, lines 1-20, p. 10, line 28 through p. 11, line 9, and p. 12, line 1-14);

wherein trailers enter and exit each railway terminal; and

wherein each access restriction system tracks arrivals and departures of the trailers from the railway terminal and modifies the information stored in the data storage system as a function of said arrivals and departures (see p. 9, line 21 through p. 11, line 15).

Independent Claim 26

26. In a trailer transport system (10, Fig. 1) having a computer system (see page 7, lines 4-9; Figure 1, reference numeral 12) and a plurality of railway terminals, including a first and a second railway terminal (see page 7, line 2; Figure 1, reference numerals 14.1 and 14.2), wherein each railway terminal is configured to receive trains having a plurality of rail cars and to receive trailers to be loaded on the rail cars (loading track 20 and main rail 22 in Fig. 1, trailer transit area 16 in Fig. 1, see also, p. 7, lines 1-9, p. 8, lines 9-18 and p. 9, line 21 through p. 10,

line 20) and wherein the computer system includes a data storage system (24) used to store information identifying the trailers being transported (*see page 7, lines 4-9*), a terminal management system, comprising:

a network interface (70 in Fig. 4, 92 in Fig. 6, *see also p. 11, lines 10-15*);

an access restriction system (64 in Fig. 4, 88 and 90 in Figs. 5 and 6, *see also p. 10, lines 1-20, p. 10, line 28 through p. 11, line 9, and p. 12, line 1-14*) which restricts access to physical locations within the railway terminal (14);

a terminal management computer (62 in Figs. 6, 8 and 9) communicatively coupled to the network interface, wherein the terminal management computer includes:

means for transferring information about trailers being transported from the railway terminals through the network interface to the computer system (62 in Fig. 8; *see p. 12, line 23 through p. 15, line 5; see also, p. 15, line 6 through p. 18, line 5 and p. 20, line 1 through p. 28, line 17*) ; and

means for receiving information about trailers being transported from the railway terminals from the computer system through the network interface (62 in Fig. 8; *see p. 12, line 23 through p. 15, line 5; see also, p. 15, line 6 through p. 18, line 5 and p. 20, line 1 through p. 28, line 17*).

In claims 26-285, the **means for transferring information about trailers** are shown as terminal PCs 54 and client workstations 62 and their underlying software as described at p. 12, line 23 through p. 15, line 5, p. 15, line 6 through p. 18, line 5 and p. 20, line 1 through p. 28,

line 17; see also Figs. 6, 8 and 9. In claims 26-28, the **means for receiving information about trailers** are shown as terminal PCs 54 and client workstations 62 and their underlying software as described at p. 12, line 23 through p. 15, line 5, p. 15, line 6 through p. 18, line 5 and p. 20, line 1 through p. 28, line 17; see also Figs. 6, 8 and 9.

Dependent Claim 28

28. The system according to claim 26, wherein the access restriction system (*64 in Fig. 4, 88 and 90 in Figs. 5 and 6, see also p. 10, lines 1-20, p. 10, line 28 through p. 11, line 9, and p. 12, line 1-14*) includes a gate and a gate controller (*64 in Fig. 4, 102 in Fig. 6*), wherein the gate controller operates in conjunction with the computer system to restrict access to the terminal (*see p. 10, lines 1-20*).

This summary does not provide an exhaustive or exclusive view of the present subject matter, and Appellant refers to the appended claims and their legal equivalents for a complete statement of the invention.

6. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

Issue 1:

Whether claims 1-10, 12-22 and 26-28 have been erroneously rejected under 35 U.S.C. §103(a), as being unpatentable over U.S. Patent No. 5,917,433 to *Keillor* (“Keillor”), in view of U.S. Patent No. 6,313,791 to *Klanke* (“Klanke”) and Paradox for Windows’ User Guide.

Issue 2:

Whether claim 2 has been erroneously rejected under 35 U.S.C. §103(a), as being unpatentable over U.S. Patent No. 5,917,433 to *Keillor* (“Keillor”), in view of U.S. Patent No. 6,313,791 to *Klanke* (“Klanke”) and further in view of PCT/NL98/00128 (“Nijenhuis”).

7. ARGUMENT

A) The Applicable Law

A.1 Standard of Review

“[T]he examiner bears the initial burden, on review of the prior art or on any other ground, of presenting a *prima facie* case of unpatentability. If that burden is met, the burden of coming forward with evidence or argument shifts to the applicant.

After evidence or argument is submitted by the applicant in response, patentability is determined on the totality of the record, by a preponderance of evidence with due consideration to persuasiveness of argument. If examination at the initial stage does not produce a *prima facie* case of unpatentability, then without more the applicant is entitled to grant of the patent.”¹

A.2 Obviousness under 35 U.S.C. § 103

Obviousness requires that the Examiner meet his or her burden under 35 U.S.C. § 103 to establish a *prima facie* case of obviousness.² As discussed by the U.S. Supreme Court in *KSR International Co. v. Teleflex Inc. et al.*, 550 U.S. 398 (2007), the determination of obviousness under 35 U.S.C. § 103 is a legal conclusion based on factual evidence.³ The legal conclusion, that a claim is obvious within § 103(a), depends on at least four underlying factual issues set

¹ *In re Oetiker*, 977 F.2d 1443, 1445, 24 USPQ2d 1443, 1444 (Fed. Cir. 1992)(citations omitted); see *In re Fine*, 837 F.2d 1071, 1074, 5 USPQ2d 1596, 1598 (Fed. Cir. 1988).

² *In re Fine*, 837 F.2d 1071, 1074, 5 USPQ2d 1596, 1598 (Fed. Cir. 1988).

³ See *Princeton Biochemicals, Inc. v. Beckman Coulter, Inc.*, 411 F.3d 1332, 1336-37, 75 USPQ2d 1051 (Fed. Cir. 2005).

forth in *Graham v. John Deere Co. of Kansas City*, 383 U.S. 1, 17 (1966): (1) the scope and content of the prior art; (2) differences between the prior art and the claims at issue; (3) the level of ordinary skill in the pertinent art; and (4) evaluation of any relevant secondary considerations.

In combining prior art references to construct a *prima facie* case, the Examiner must show some objective evidence in the prior art or some knowledge generally available to one of ordinary skill in the art that would lead an individual to combine the relevant portions of the references.⁴ However, the level of skill is generally that of the person who follows the conventional wisdom in the art.⁵ An invention can be obvious even though the reason to combine prior art teachings is not found in a specific reference.⁶ But the requirement of some reason to combine references in a *prima facie* case of obviousness is emphasized in the Federal Circuit opinion, *In re Lee*,⁷ which notes that the reason must be supported by some evidence in the record.

The *KSR* Court rejected a rigid application of any “teaching, suggestion, motivation” test; it recognized that a more flexible conception of the test is entirely consistent with the *Graham* analysis.⁸ The test for obviousness under § 103 must take into consideration the invention as a whole; that is, one must consider the particular problem solved by the combination of elements

⁴ *In re Fine*, 837 F.2d 1071, 1074, 5 USPQ2d 1596, 1598 (Fed. Cir. 1988).

⁵ *Standard Oil Co. v. American Cyanamid Co.*, 774 F.2d 448, 454, 227 USPQ 293, 298 (Fed. Cir. 1985).

⁶ *See In re Oetiker*, 977 F.2d 1443, 1448, 24 USPQ2d 1443, 1446 (Fed. Cir. 1992).

⁷ *In re Lee*, 277 F.3d 1338, 1343, 61 USPQ2d 1430, 1433 (Fed. Cir. 2002).

⁸ *KSR Int’l Co. v. Teleflex Inc.*, 550 U.S. 398, 401, 127 S.Ct. 1727, 1731 (2007).

that define the invention.⁹ References must be considered in their entirety, including parts that teach away from the claims.¹⁰ The fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination.¹¹

Notably, the *KSR* Court affirmed that “rejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness.”¹² Additionally, “mere identification in the prior art of each element is insufficient to defeat the patentability of the combined subject matter as a whole.”¹³ The Examiner must, as one of the inquiries pertinent to any obviousness inquiry under 35 U.S.C. §103, recognize and consider not only the similarities but also the critical differences between the claimed invention and the prior art.¹⁴ Moreover, when a reference teaches away from a claimed invention, this fact highly probative that the reference would not have rendered the claimed invention obvious to one of ordinary skill

⁹ *Interconnect Planning Corp. v. Feil*, 774 F.2d 1132, 1143, 227 USPQ 543, 551 (Fed. Cir. 1985).

¹⁰ See M.P.E.P. § 2141.02.

¹¹ See generally *In re Mills*, 916 F.2d 680, 16 USPQ2d 1430, 1432-1433 (Fed. Cir. 1990); M.P.E.P. § 2143.01.

¹² See *In re Kahn*, 441 F.3d 977, 988, 78 USPQ2d 1329, 1335-1336 (CA Fed. 2006) (cited with approval in *KSR Int’l v. Teleflex Inc.*, 127 S. Ct. 1727, 1740-41 (2007)).

¹³ *Id.*

¹⁴ See *In re Bond*, 910 F.2d 831, 834, 15 USPQ2d 1566, 1568 (Fed. Cir. 1990), *reh’g denied*, 1990 U.S. App. LEXIS 19971 (Fed. Cir. 1990).

in the art.¹⁵ If the proposed modification or combination of the prior art would change the principle of operation of the prior art invention being modified, then the teachings of the references are not sufficient to render the claims prima facie obvious.¹⁶ The CCPA has also noted that “[t]he court must be ever alert not to read obviousness into an invention on the basis of the applicant’s own statements; that is, we must view the prior art without reading into that art appellant’s teachings.”¹⁷ Thus, these principles have not been changed by the ruling in *KSR*.

B. Introduction

Claims 1-10 and 12-15 each require an infringing system to include terminal management systems that track when a trailer arrives at a terminal and modify information regarding the trailer when it arrives, as discussed below.

Claim 3 requires that an infringing system must include not only the terminal management system of claim 1 but also that it must include a reservation system for reserving a slot on a train and that the reservation system operate in conjunction with the trailer tracking system to ensure that a trailer to be transported is placed on its assigned train.

¹⁵ *Stranco Inc. v. Atlantes Chemical Systems, Inc.*, 1990 WL 10072072, 15 USPQ2d 1704, 1713 (Tex. 1990).

¹⁶ See generally *In re Ratti*, 270 F.2d 810, 123 USPQ 349, 352 (CCPA 1959).

¹⁷ *In re Spinnoble*, 405 F.2d 578, 585, 160 USPQ 237, 243 (CCPA 1969).

Claim 9 requires that an infringing system must include not only the terminal management system of claim 1 but also that the terminal management system must include an access restriction system which restricts access to physical locations within the railway terminal.

Claim 10 requires that an infringing system must include not only the terminal management system of claim 1 but also that the terminal management system must include an access restriction system which restricts access to physical locations within the railway terminal and that the access restriction system includes a gate and a gate controller, wherein the gate controller operates in conjunction with the computer system to restrict access to the terminal.

Claims 14 and 15 require that an infringing system must include not only the terminal management system of claim 12 but also that the terminal management system must include an access restriction system which restricts access to physical locations within the railway terminal.

Claims 16-22 require an infringing system to include access restriction systems that track when a trailer arrives at a terminal and modify information regarding the trailer when it arrives, as discussed below.

Finally, claims 25-28 are directed toward terminal management systems.

C. Appellants' Invention

Appellants' invention, as claimed in the present application, relates to a system for tracking trains and the trailers placed on those trains. The system is especially suited for use in situations in which a train is used to transport truck trailers over short and medium haul

corridors. In such a scenario, a truck enters a train terminal, and drops off its trailer. The trailer is carried by train to a destination terminal. A truck meets the trailer at the destination terminal, picks up the trailer, and carries it to its final destination.

Figure 1 (reproduced from Appellants' application) broadly depicts the system.

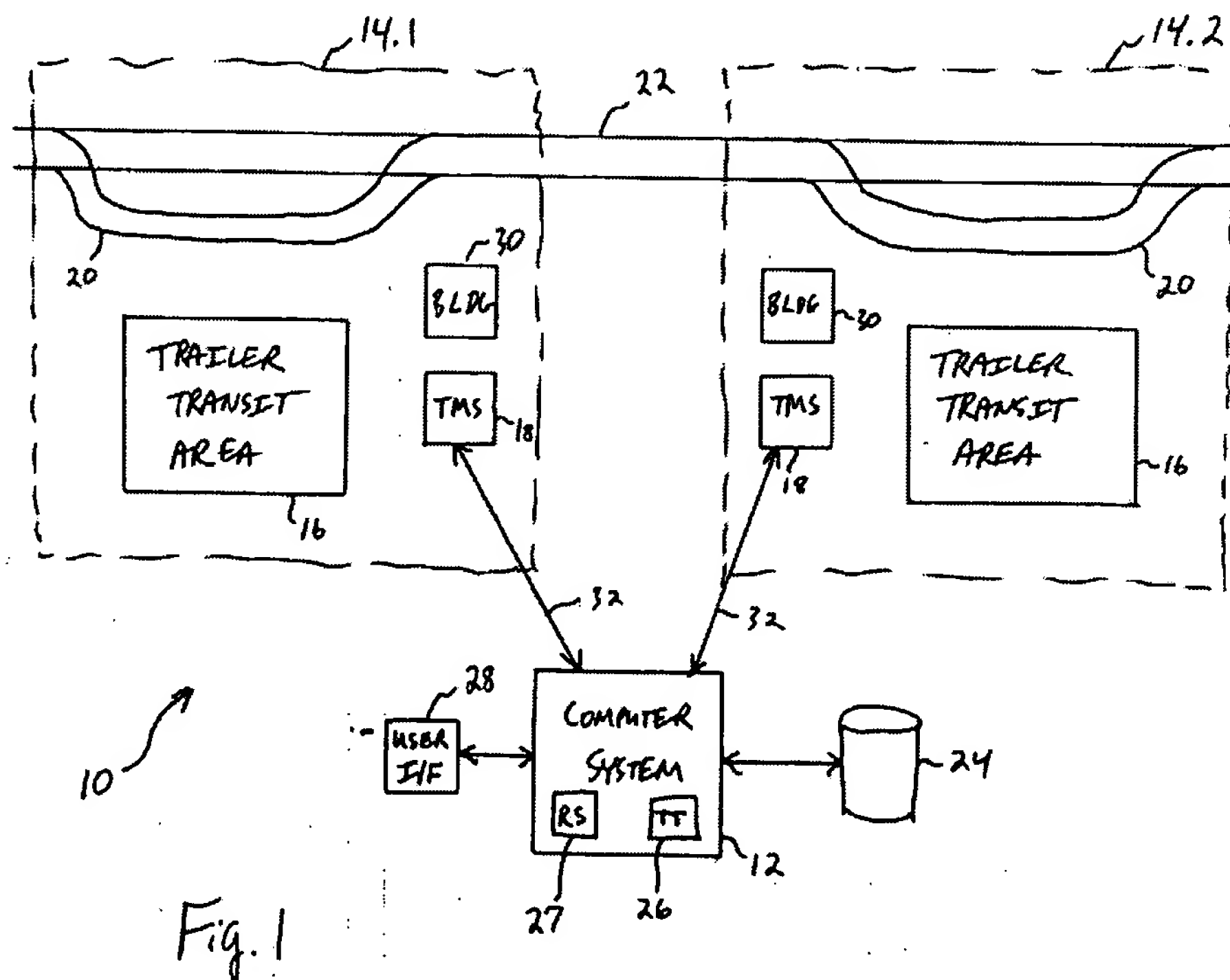


Figure 1

The system includes a first terminal (identified by reference numeral 14.1) and a second terminal (identified by reference numeral 14.2). A main rail (identified by reference numeral 22), along which a train may travel, extends between the first and second terminals. Each terminal has a terminal management system (identified by reference numeral 18) that

communicates with a computer system (identified by reference numeral 12). The computer system includes a trailer tracking program (identified by reference numeral 26). The trailer tracking program receives information regarding a trailer and stores the information in a record within a data storage system (identified by reference numeral 24). Each terminal management system tracks arrivals and departures of trailers to and from its associated terminal. Further, each terminal management system modifies the information stored in the data storage system as a function of the arrivals and departures. Optionally, a terminal management system may include functionality for controlling entry to and exit from a terminal, as well as the aforementioned trailer tracking functionality. Such functionality, if provided, is referred to as an “access restriction system.”

While Appellants’ invention is complex and has many facets that are to be appreciated, its major components include a computer system (reference numeral 12) and a terminal management system (reference numeral 18) associated with each terminal. The specification makes clear that a terminal management system is a computing device that performs the aforementioned tracking functionality. See Application at page 7.

Claims 1-10 and 12-15 each require the aforementioned computer system, terminal management systems, and tracking functionality. With regard to the tracking functionality, claims 1-10 require each “terminal management system [to] pull[] up the record corresponding to the trailer to be transported when the trailer arrives at the terminal and [to] modif[y] the record to reflect the trailer’s transportation status.” Claims 12-15 require “each terminal management

system [to] track[] arrivals and departures of trailers from the terminal and [to] modif[y] the information stored in the data storage system as a function of said arrivals and departures.”

Independent claim 16 is linguistically identical to independent claim 12 with one exception: the terminal management systems of claim 12 are recited as “access restriction systems” in claim 16. Just as in claim 12, claim 16 requires each access restriction system to “track[] arrivals and departures of trailers from the terminal and [to] modif[y] the information stored in the data storage system as a function of said arrivals and departures.”

Finally, claims 25-28 claim the terminal management systems, themselves.

D. The Prior Art

Claims 1-10, 12-22 and 25-28 were rejected under 35 U.S.C. § 103(a) as being obvious over Keillor et al. (U.S. Patent No. 5,917,433) in view of Klanke (U.S. Patent No. 6,313,791) and Paradox for Window’s User’s Guide). Briefly, Keillor describes an asset monitoring system used to track containers such as trailers, railcars, shipping containers, etc. (see Figure 2 below (replicating Fig. 1 from Keillor)).

An asset monitor is placed in each container. The asset monitor communicates with a central station so that the central station is aware of the location of the trailer. In addition, sensors mounted within the trailer can monitor such things as the temperature of the container and send that information back to the central station.

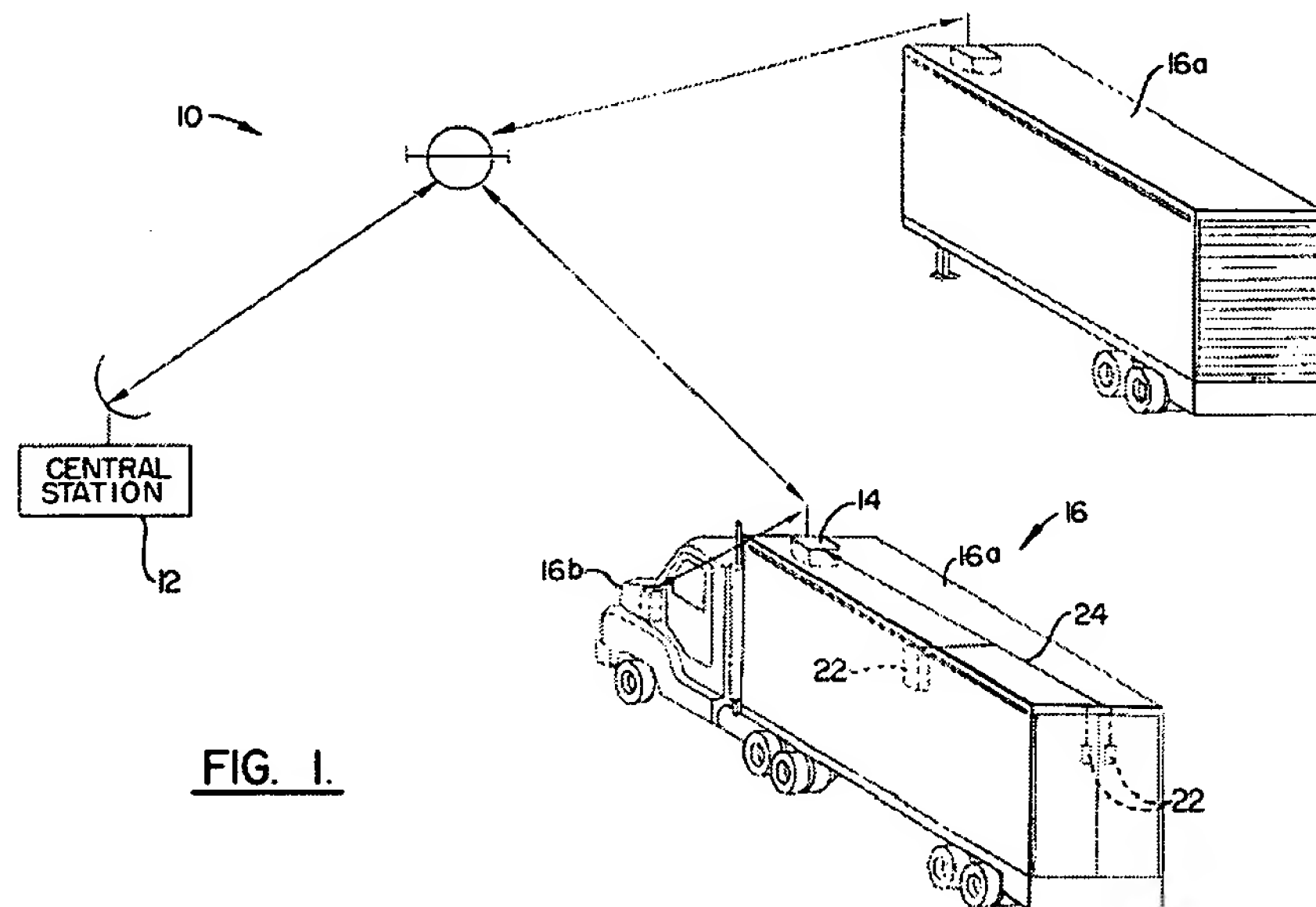


Figure 2

As can be seen from Figure 2, the system of Keillor includes a monitor (reference numeral 14) associated with each trailer (reference numeral 16a). The monitor is powered from the electrical system of the truck (reference numeral 16b), and includes an “energy storage reservoir” that can power the monitor during periods when the trailer is not coupled to the truck.

The monitor includes a sensor interface that allows for continuous tracking of the location and status of the trailer. For instance, the sensor interface may be coupled to a temperature sensor. Thus, the location and status (e.g., temperature) of the trailer is transmitted to a central station (reference numeral 12). For example, the monitor may be configured to alert

the central station of the location and temperature of the trailer if the temperature crosses a threshold (e.g., the temperature of a refrigerated trailer rises above 32° F).

Klanke describes a global positioning satellite (GPS) based system which uses audio, visual and ignition control alarms to limit or stop vehicle operation outside permitted locations. Klanke describes a method of tracking vehicles making delivery stops which involves entering the route and the expected stops in the unit mounted in the vehicle, and calling in the vehicle's location each time the vehicle reaches one of its programmed stops (as indicated by the GPS unit).

E. Rebuttal of the Rejection of Claims 1-10, 12-22 and 26-28 under 35 U.S.C. §102(e)

1. Claims 1, 2 and 4-8, 12 and 13 were rejected under 35 U.S.C. § 103(a) as being obvious over Keillor et al. (U.S. Patent No. 5,917,433) in view of Klanke (U.S. Patent No. 6,313,791) and Paradox for Window's User's Guide).

Claim 1 is reproduced below:

1. A trailer transport system for tracking trains having a plurality of rail cars, wherein each rail car can transport a trailer, the system comprising:

a computer system having a trailer tracking program, wherein the trailer tracking program receives information regarding a trailer to be transported and stores the information in a record; and

a plurality of railway terminals, wherein each railway terminal includes means for receiving a train having a plurality of rail cars and means for receiving trailers to be loaded on the rail cars and wherein each railway terminal includes a

railway terminal management system communicatively connected to the computer system, wherein the railway terminal management system pulls up the record corresponding to the trailer to be transported when the trailer arrives at the terminal and modifies the record to reflect the trailer's transportation status.

The Examiner stated that "Keillor discloses a computer system having a trailer tracking program which receives information regarding the trailer and stores the information in a record." He goes on to state that the information being "tracked" is the sensed conditions of the container or trailer being monitored. Please note that the Examiner is giving no weight to the preamble and is ignoring that the limitation recited in claim 1 is "wherein the trailer tracking program receives information *regarding a trailer to be transported* and stores the information in a record." The trailer transport system of the present invention as claimed in claim 1 is a system for monitoring the transport of trailers on rail cars, not a system for monitoring the temperature within a single trailer. The Examiner has simply written out a key part of the claim.

The Examiner stated that Keillor teaches a railway terminal. He offers three ways in which Keillor could be interpreted to teach a railway terminal. First, he suggests that Keillor teaches that asset monitors could be placed on rail cars, stating "wherein each railway terminal includes means for receiving a train having a plurality of rail cars and means for receiving trailers to be loaded on rail cars, (Col. 5, lines 21-38, shows rail cars for a railroad can be implemented with the invention)." The section the Examiner cited states that the asset monitoring system could be adapted to monitor a rail car by placing one of the asset monitors in

a rail car. Appellant is uncertain how that statement teaches a railway terminal, wherein each railway terminal includes means for receiving a train having a plurality of rail cars and means for receiving trailers to be loaded on the rail cars, as described by Appellant and claimed in claim 1.

The Examiner then goes on to state that Keillor teaches “railway terminals” in that the driver of a truck that is being monitored by the asset monitor would have to stop at a truck stop and that truck stops have multiple terminals. Final Office Action, p. 3, lines 8-12. Appellant respectfully submits that railway terminals, as defined by Appellant, are not found at truck stops.

Finally, as his third alternative, the Examiner states that

each asset monitor for the trailer would serve as an independent terminal since the asset monitor receives each trailer by way of distinct communication links with the central station, and the master asset terminal serves as the means for receiving since it is the master asset terminal that it is the master asset monitor that receives the slave asset monitors when receiving information related to the sensory signals collected by each of the asset monitors, and therefore the trailers that the slave asset monitors are on

The Examiner seems to be suggesting that the asset monitors are the “railway terminals” and that the “means for receiving a train having a plurality of rail cars and means for receiving trailers to be loaded on the rail cars” is the master asset terminal. Neither Keillor’s asset monitor nor his master asset terminal is capable of “receiving a train having a plurality of rail cars” as required by claim 1. The Examiner has the duty to interpret “means plus function” language based on the specification. *MPEP Section 2181, “the “broadest reasonable interpretation” that an examiner may give means-plus-function language is that statutorily mandated in paragraph*

six. Accordingly, the PTO may not disregard the structure disclosed in the specification corresponding to such language when rendering a patentability determination.”)

Claim 1 also requires that “each railway terminal includes a railway terminal management system communicatively connected to the computer system, wherein the railway terminal management system pulls up the record corresponding to the trailer to be transported when the trailer arrives at the terminal and modifies the record to reflect the trailer’s transportation status.”

According to the Examiner, the asset monitor of Keillor is both the railway terminal and the railway terminal management system.

(col. 3, lines 45-54, asset monitor transmits information, such as status of the container/trailer to the central station, in this case the asset monitor represents the terminal management system, and the central station represents the computer system, w/ col. 10, line 65-Col. 11, line 10, asset monitor transmits update to central processor about sensed data, where col. 7., lines 44-54, shows that central station stores data relating to sensory signals).

The Examiner stated that Keillor’s asset monitor “pulls up the record corresponding to the trailer to be transported when the trailer arrives at the terminal and modifies the record to reflect the trailer’s transportation status.” For support the Examiner turns to Keillor, col. 3, lines 45-54, where Keillor states:

The asset monitoring system and, in one embodiment, the asset monitor, include communications means, such as a communications transceiver, for establishing a first communications link between the asset monitor and the remotely located central station. The communications means of the asset monitor is adapted to transmit information, such as the location of the container, the status of the container and its contents and the effective time and date of the location

and status information, to the central station via the first communications link, even during untethered periods.

and on Keillor, col. 7, lines 44-54, where Keillor states:

In addition to or instead of generating interrupt signals, the sensors can provide sensory signals indicative of the measured condition, such as the temperature within a refrigerated or unrefrigerated trailer, and/or sensory signals which provide additional details of the sensed condition, such as the relative condition of a door. Based upon this type of sensory signal, the asset monitor and/or the central station can store data relating the sensory signals and can monitor the sensed condition, such as to detect trends or to determine if the sensed condition is within acceptable limits, as described below.

and on Keillor, col. 10, line 65 through col. 11, line 10, where Keillor states:

As a further example, the central station 12 may request an update on the status of the various sensors 22. Accordingly, the asset monitor 14 can determine if any of the sensors have generated an interrupt since the last update and, if so, the asset monitor can transmit information to the central station which defines the sensor which generated the interrupt and the time and date of the interrupt, for example. The central station can thereafter process and store the sensed data as described below. Alternatively, the asset monitor can transmit information relating to the actual condition or event which was sensed, such as the temperature of a refrigerated trailer, or well or the time and date of the sensed condition or event for analysis by the central station.

Applicant is unable to see in any of these passages (or anywhere else in any of the cited references) where any reference teaches, describes or suggests that Keillor's asset monitor should be adapted to pull up the record corresponding to the trailer to be transported when the trailer arrives at the terminal and which modifies the record to reflect the trailer's transportation status as required by claims 1-10. In fact, if the asset monitor is both installed in the trailer and is an independent railway terminal, the system could never detect when the

trailer arrives at the terminal as taught by Applicant and claimed in claims 1-10. Instead, the terminal and the trailer would be coexistent.

Furthermore, there is no teaching or suggestion in Keillor to detect arrival at a particular location and to communicate that arrival to a computer as taught by Applicant and as required in claims 1-10.

The Examiner further stated that although Kleinke does not disclose a plurality of railway terminals, Klanke does. As noted above, Klanke describes a method of tracking vehicles making delivery stops which involves entering the route and the expected stops in the unit mounted in the vehicle, and calling in the vehicle's location each time the vehicle reaches one of its programmed stops (as indicated by the GPS unit). The Examiner found that each of the stops is a "terminal" and, since there can be more than one stop, the stops are a plurality of terminals. According to the Examiner, "it would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to have a plurality of terminals with the motivation of having means to input and store information." Final Office Action, p. 5, lines 1-3.

Appellant is uncertain how the stops of Klanke could combined with the asset monitors of Keillor to provide the "plurality of railway terminals" described and claimed by Appellant. If each of Klanke's stops are a terminal, then how does the stop itself have "a railway terminal management system communicatively connected to the computer system, wherein the railway terminal management system pulls up the record corresponding to the trailer to be transported when the trailer arrives at the terminal and modifies the record to reflect the trailer's

transportation status” as required by claim 1? On the other hand, if the asset monitor itself is the railway terminal, how do the stops of Klanke provide any teaching to lead one to a plurality of railway terminals as taught by Appellant and claimed in claim 1? Finally, neither interpretation leads to a railway terminal that **“includes means for receiving a train having a plurality of rail cars and means for receiving trailers to be loaded on the rail cars and wherein each railway terminal includes a railway terminal management system communicatively connected to the computer system, wherein the railway terminal management system pulls up the record corresponding to the trailer to be transported when the trailer arrives at the terminal and modifies the record to reflect the trailer’s transportation status”** as required by claim 1.

Claims 2 and 4-8 are dependent on claim 1 and are patentable for the same reasons as claim 1. Claims 12 is an independent claims but is patentable for the reasons given for claim 1 above. Claim 13 is dependent on claim 12 and are patentable for the same reasons as claim 12. Reversal of the rejection of claims 1, 2, 4-8, 12 and 13 is respectfully requested.

2. **Claim 3 was rejected under 35 U.S.C. § 103(a) as being obvious over Keillor et al. (U.S. Patent No. 5,917,433) in view of Klanke (U.S. Patent No. 6,313,791) and Paradox for Window’s User’s Guide).**

Claim 3 is reproduced below:

3. The system according to claim 1, wherein the computer system includes a reservation system for reserving a slot on a train, wherein the reservation system

operates in conjunction with the trailer tracking program to ensure that a trailer to be transported is placed on its assigned train.

The Examiner stated that Keillor discloses “wherein the computer system includes a reservation system for reserving a slot on a train.” For support, the Examiner points to col. 1, lines 16-20, where Keillor states:

Each day, large quantities of freight which has a cumulative value of many millions of dollars are shipped throughout the United States and throughout the world. For example, large quantities of freight are loaded into rail cars and shipped by railroad.

There is no mention of a **“reservation system for reserving a slot on a train, wherein the reservation system operates in conjunction with the trailer tracking program to ensure that a trailer to be transported is placed on its assigned train”** as required by claim 3.

Appellant teaches, and claims in claim 3, a trailer transport system with a reservation system. In operation, as is discussed at p. 20, line 1 through p. 22, line 16, a trucking company logs onto the reservation system to reserve a slot on a specific train. When the trailer is delivered to the terminal where the train with the reserved slot is due, it is parked and then loaded on the train in the appropriate location when the train arrives.

Appellant respectfully submits that there is no teaching in any of the cited references that one lead one to combine the teachings of Keillor and Klanke to build a trailer transport system having “a computer system that includes a reservation system for reserving a slot on a train, wherein the reservation system operates in conjunction with the trailer tracking program to

ensure that a trailer to be transported is placed on its assigned train” as described by Appellant and claimed in claim 3.

Reversal of the rejection of claim 3 is respectfully requested.

3. Claims 9, 14-22, 26 and 27 were rejected under 35 U.S.C. § 103(a) as being obvious over Keillor et al. (U.S. Patent No. 5,917,433) in view of Klanke (U.S. Patent No. 6,313,791) and Paradox for Window’s User’s Guide).

Claim 9 is reproduced below:

9. The system according to claim 1, wherein the terminal management system includes an access restriction system which restricts access to physical locations within the railway terminal.

The access restriction system which restricts access to physical locations within the railway terminal is discussed at p. 10, lines 1-20, p. 10, line 28 through p. 11, line 9, and p. 12, line 1-14 and is part of the terminal management system in each railway terminal.

The Examiner stated that, although Keillor does not disclose an access restriction system which restricts access to physical locations within the railway terminal, Keillor does disclose wireless networks in col. 9, lines 15-19, and access restriction is standard in wireless networks so that entities not included in the network cannot have access to services. The Examiner then goes on to state that Klanke discloses:

Wherein the terminal management system includes an access restriction system which restrict access to physical locations within the railway terminal/

wherein the access restriction system comprises an access controller. . . , (col. 5, lines 27-30, fence). Klanke discloses this limitation in analogous art for the purpose of showing that the fence incorporates permitted and forbidden areas.

Therefore it would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify Keillor as taught by Klanke to include Klanke's access restriction system.

Appellant respectfully submits that wireless network access control systems are not part of any terminal management system and do not “restrict access to physical locations within the railway terminal” as required of the access restriction system claimed in claim 9.

Klanke teaches using a GPS-based unit to restrict movement by vehicles to within GPS-defined areas (an “electronic fence”). Neither Keillor nor Klanke teach or describe **a railway terminal, or a terminal management unit, or “an access restriction system which restricts access to physical locations within the railway terminal”** as required of the access restriction system claimed in claim 9.

Also, as noted above, it is not sufficient for the Examiner to simply find elements of the claim and cobble together a rejection. The *KSR* Court affirmed that “rejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness.”¹⁸ “Mere identification in the prior art of each element is insufficient to defeat the patentability of the combined subject matter as a whole.”¹⁹

¹⁸ See *In re Kahn*, 441 F.3d 977, 988, 78 USPQ2d 1329, 1335-1336 (CA Fed. 2006) (cited with approval in *KSR Int'l v. Teleflex Inc.*, 127 S. Ct. 1727, 1740-41 (2007)).

¹⁹ *Id.*

Claims 14-22, 26 and 27 are patentable for the reasons given for claim 9 above. Reversal of the rejection of claims 9, 14-22, 26 and 27 is respectfully requested.

4. Claims 10 and 28 was rejected under 35 U.S.C. § 103(a) as being obvious over Keillor et al. (U.S. Patent No. 5,917,433) in view of Klanke (U.S. Patent No. 6,313,791) and Paradox for Window's User's Guide).

Claim 10 is reproduced below:

10. The system according to claim 9, wherein the access restriction system includes a gate and a gate controller, wherein the gate controller operates in conjunction with the computer system to restrict access to the terminal.

The access restriction system which restricts access to physical locations within the railway terminal is discussed at p. 10, lines 1-20, p. 10, line 28 through p. 11, line 9, and p. 12, line 1-14 and is part of the terminal management system in each railway terminal. The access restriction unit that includes a gate and gate controller is discussed at p. 10, lines 1-20.

The Examiner stated that, although Keillor

does not necessarily disclose a gate restriction ... to restrict access to its respective railway terminal, but does disclose a wireless communication in col. 9, lines 15-19, where it is inherent to have access restriction since access restriction is standard in wireless networks so that entities not included in the network can not have access to services.

However, Klanke disclose the gate restriction ... to restrict access to its respective railway terminal, (col. 5, lines 27-30, fence). Klanke discloses this limitation in analogous art for the purpose of showing that the fence incorporates permitted and forbidden areas.

Final Office Action, p. 9, line 19 through p. 10, line 6.

As noted above, Appellant respectfully submits that wireless network access control systems do not “restrict access to physical locations within the railway terminal” as required of the access restriction system claimed in claim 10.

As noted above, Klanke teaches using a GPS-based unit to restrict movement by vehicles to within GPS-defined areas (an “electronic fence”). Neither Keillor nor Klanke teach or describe **a railway terminal, or a terminal management unit, or “an access restriction system which restricts access to physical locations within the railway terminal” or “a gate and a gate controller, wherein the gate controller operates in conjunction with the computer system to restrict access to the terminal”** as required of the access restriction system claimed in claim 10.

Claim 28 is patentable for the reasons given for claim 10 above. Reversal of the rejection of claims 10 and 28 is respectfully requested.

5. **Claim 2 was rejected under 35 U.S.C. § 103(a) as being obvious over Keillor et al. (U.S. Patent No. 5,917,433) and further in view of Klanke (U.S. Patent No. 6,313,791) and further in view of Nijenhuis.**

Claim 2 is reproduced below:

2. The system according to claim 1, wherein each terminal includes a track and a loading pad crossing the track to facilitate rapid loading and unloading of trailers from the train.

The Examiner admits that Keillor does not teach a loading pad, as required by claim 2. However, the Examiner states that Nijenhuis discloses a loading pad, and asserts that the combination of Keillor, Klanke and Nijenhuis discloses all of the elements of claim 2, and renders claim 2 obvious. At the outset, Appellants point out that claim 2 depends from claim 1, and is therefore patentable for at least the same reasons that claim 1 is patentable. Claim 2 is also patentable for the additional reason set forth below.

Claim 2 requires each terminal to include a track, and further requires a "loading pad crossing the track." As just mentioned, the Examiner acknowledges that Keillor does not teach a loading pad at all. Nijenhuis, on the other hand, does teach a loading pad, but does not teach a loading pad "crossing the track." The loading pad disclosed by Nijenhuis is depicted in Figure 1, which is reproduced herein as Figure 4.

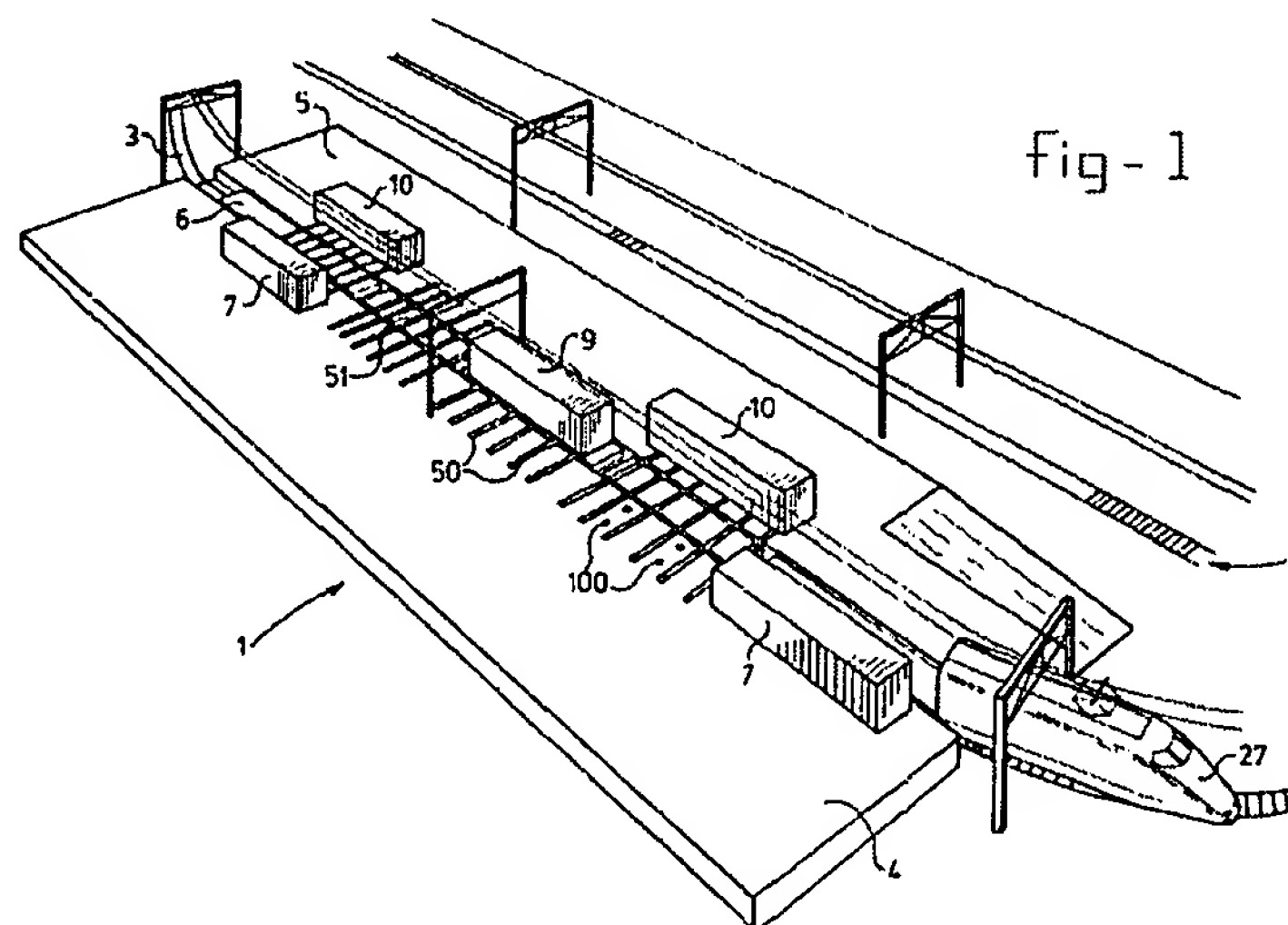


Figure 4

As can be seen from Figure 1 of Nijenhuis, the loading pad (identified by reference numeral 4) is elevated relative to the track (identified by reference numeral 3). Thus, containers may be lowered from the loading pad into the railcars (identified by reference numeral 6). Notably, the loading pad runs along the side of the track, and does not cross the track, as required by claim 2. Appellants go on to point out that Nijenhuis does not contain even so much as a suggestion to modify the loading pad to cross the track. Further, the record contains no evidence that one of ordinary skill in the art would be motivated to modify the loading pad of Nijenhuis to cross the track. Accordingly, rejection of claim 2 under 35 U.S.C. §103(a), as being obvious in view of Keillor, Klanke and Nijenhuis is improper, because such a combination does not result in a "loading pad crossing the track," as required by claim 2.

Reversal of the rejection of claim 2 is respectfully requested.

Respectfully submitted,

DOUGLAS J. MILLER ET AL.

By their Representatives,

SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.
P.O. Box 2938
Minneapolis, MN 55402

Date November 6, 2009 By

1 Thomas F. Brennan 1

Thomas F. Brennan

Reg. No. 35,075

CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: Mail Stop Appeal Brief, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on this 6TH day of November, 2009.

Thomas F. Brennan

Name

1 Thomas F. Brennan 1
Signature

APPENDIX I

THE CLAIMS ON APPEAL

1. (Previously Presented) A trailer transport system for tracking trains having a plurality of rail cars, wherein each rail car can transport a trailer, the system comprising:

a computer system having a trailer tracking program, wherein the trailer tracking program receives information regarding a trailer to be transported and stores the information in a record; and

a plurality of railway terminals, wherein each railway terminal includes means for receiving a train having a plurality of rail cars and means for receiving trailers to be loaded on the rail cars and wherein each railway terminal includes a railway terminal management system communicatively connected to the computer system, wherein the railway terminal management system pulls up the record corresponding to the trailer to be transported when the trailer arrives at the terminal and modifies the record to reflect the trailer's transportation status.

2. (Original) The system according to claim 1, wherein each terminal includes a track and a loading pad crossing the track to facilitate rapid loading and unloading of trailers from the train.

3. (Original) The system according to claim 1, wherein the computer system includes a reservation system for reserving a slot on a train, wherein the reservation system operates in

conjunction with the trailer tracking program to ensure that a trailer to be transported is placed on its assigned train.

4. (Original) The system according to claim 1, wherein the terminal management system includes a trailer tracking system connected to the computer system over a network.

5. (Previously Presented) The system according to claim 4, wherein the trailer tracking system includes a terminal interface coupled to the network.

6. (Original) The system according to claim 4, wherein the computer system includes a network and wherein the trailer tracking system includes a terminal interface coupled to the network and a hand held computer unit wirelessly coupled to the terminal interface.

7. (Original) The system according to claim 4, wherein the trailer tracking system comprises a portable computer.

8. (Original) The system according to claim 1, wherein the terminal management system includes a trailer tracking device, wherein the trailer tracking device is a handheld computer connected to the computer system over a wireless communications channel.

-
9. (Previously Presented) The system according to claim 1, wherein the terminal management system includes an access restriction system which restricts access to physical locations within the railway terminal.
10. (Previously Presented) The system according to claim 9, wherein the access restriction system includes a gate and a gate controller, wherein the gate controller operates in conjunction with the computer system to restrict access to the terminal.
12. (Previously Presented) In a trailer transport system having a computer system and a plurality of railway terminals, including a first and a second railway terminal, wherein each railway terminal is configured to receive trains having a plurality of rail cars and to receive trailers to be loaded on the rail cars, a system for tracking movement of a trailer, comprising:
- a network;
 - a computer system communicatively coupled to the network, wherein the computer system includes a data storage system used to store information identifying the trailer;
 - a first terminal management system associated with the first railway terminal, wherein the first terminal management system is communicatively coupled to the network and communicates through the network to the computer system; and

a second terminal management system associated with the second railway terminal, wherein the second terminal management system is communicatively coupled to the network and communicates through the network to the computer system;

wherein trailers enter and exit each railway terminal; and

wherein each terminal management system tracks arrivals and departures of the trailers from each railway terminal and modifies the information stored in the data storage system as a function of said arrivals and departures.

13. (Original) The trailer transport system of claim 12, wherein the network comprises a token ring network.

14. (Previously Presented) The trailer transport system of claim 12, wherein the terminal management system comprises an access restriction system which restricts access to physical locations within the railway terminal.

15. (Original) The trailer transport system of claim 14, wherein the access restriction system comprises an access controller coupled to an access server, wherein the access server is coupled to the network.

16. (Previously Presented) In a trailer transport system having a computer system and a plurality of railway terminals, including a first and a second railway terminal, wherein each railway terminal is configured to receive trains having a plurality of rail cars and to receive trailers to be loaded on the rail cars, a system for tracking movement of a trailer, comprising:

a network;

a computer system communicatively coupled to the network, wherein the computer system includes a data storage system used to store information identifying the trailer;

a first access restriction system associated with the first railway terminal, wherein the first access restriction system is communicatively coupled to the network and communicates through the network to the computer system; and

a second access restriction system associated with the second railway terminal, wherein the second access restriction system is communicatively coupled to the network and communicates through the network to the computer system;

wherein trailers enter and exit each railway terminal; and

wherein each access restriction system tracks arrivals and departures of the trailers from the railway terminal and modifies the information stored in the data storage system as a function of said arrivals and departures.

17. (Original) The trailer transport system of claim 16, wherein the network comprises a token ring network.

18. (Original) The trailer transport system of claim 16, wherein the access restriction system comprises an access controller coupled to an access server, wherein the access server is coupled to the network.
19. (Original) The trailer transport system of claim 16, wherein the computer system includes a web server connected through a firewall to the network, wherein the web server is used by trucking companies to reserve a slot on a selected train.
20. (Original) The trailer transport system of claim 16, wherein the computer system includes a web server connected through a firewall to the network, wherein the web server is used by trucking companies to enter trailer information to be stored to the data storage system.
21. (Original) The trailer transport system of claim 16, wherein the computer system comprises a main frame and an application server, wherein the mainframe and the application server are communicatively coupled to the network.
22. (Original) The trailer transport system of claim 16, wherein the access restriction system comprises a hand held computer unit wirelessly coupled to the network.

26. (Previously Presented) In a trailer transport system having a computer system and a plurality of railway terminals, including a first and a second railway terminal, wherein each railway terminal is configured to receive trains having a plurality of rail cars and to receive trailers to be loaded and transported on the rail cars and wherein the computer system includes a data storage system used to store information identifying the trailers being transported, a terminal management system, comprising:

a network interface;

an access restriction system which restricts access to physical locations within the railway terminal;

a terminal management computer communicatively coupled to the network interface and to the access restriction system, wherein the terminal management computer includes:

means for transferring information about trailers being transported from the railway terminals through the network interface to the computer system; and

means for receiving information about trailers being transported from the railway terminals from the computer system through the network interface.

27. (Previously Presented) The trailer transport system of claim 26, wherein the access restriction system comprises a hand held computer unit wirelessly coupled to the network.

28. (Previously Presented) The system according to claim 26, wherein the access restriction system includes a gate and a gate controller, wherein the gate controller operates in conjunction with the computer system to restrict access to its respective railway terminal.

Appeal Brief Under 37 CFR 41.37

Serial No.: 09/579,918

Filed: May 26, 2000

Title: SYSTEM AND METHOD FOR RAIL TRANSPORT OF TRAILERS

Page 46 of 47
Docket No.: 1126.001US1

EVIDENCE APPENDIX

None.

Appeal Brief Under 37 CFR 41.37

Serial No.: 09/579,918

Filed: May 26, 2000

Title: SYSTEM AND METHOD FOR RAIL TRANSPORT OF TRAILERS

Page 47 of 47

Docket No.: 1126.001US1

RELATED PROCEEDINGS APPENDIX

None.